IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.49 OF 2005
AND
CENTRAL EXCISE APPEAL NO.134 OF 2005

Commissioner of Central Excise .. Appellant.

V/s.

M/s.Unitech Prefeb Limited .. Respondent.

Mr.P.S. Jetly with Mr.Y.R. Mishra for the appellant.

Mr.Mohan Sanklecha with Mr.S.P. Bharti for the respondent.

CORAM : DR.S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 27TH FEBRUARY, 2006.

P.C. :

1. Heard the learned counsel for the appellant and the learned counsel for the respondent.

2. The following substantial question of law is raised in both the appeals.

> "a) Whether the CESTAT is correct in holding the product manufactured by M/s.Unitech Prefab at their plant at Goergaon, which meant for manufacture of Ready Mix Concrete, and transported / dispatched in exclusive vehicle meant to carry Read Mix Concerete, is DRY MIXTURE of Cement, Sand and Crushed Stone and not READY MIX CONCRETE ?"

3. After perusal of the above question, we are of the view that ultimately the above question will

lead to the issue of classification.

4. In view thereof, the learned counsel for the appellant seeks leave to withdraw these appeals with liberty to approach the Hon'ble Supreme Court by way of appeal.

5. Both the appeals are allowed to be withdrawn with the aforesaid liberty.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)